

ESTTA Tracking number: **ESTTA9536**

Filing date: **06/02/2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

### **Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

#### **Opposers Information**

<b>Name</b>	Pfizer Inc.
<b>Granted to Date of previous extension</b>	06/20/2004
<b>Address</b>	Pfizer Inc. 235 East 42nd Street New York, NY 10017 UNITED STATES

<b>Name</b>	Pharmacia & Upjohn Company
<b>Granted to Date of previous extension</b>	06/20/2004
<b>Address</b>	Pharmacia & Upjohn Company 100 Route 206 North Peapack, NJ 07977 UNITED STATES

<b>Attorney information</b>	J. Paul Williamson Fulbright & Jaworski L.L.P. 801 Pennsylvania Avenue, NW Washington, DC 20004 UNITED STATES
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### **Applicant Information**

<b>Application No</b>	76516846	<b>Publication date</b>	12/23/2003
<b>Opposition Filing Date</b>	06/02/2004	<b>Opposition Period Ends</b>	06/20/2004
<b>Applicant</b>	Novo Nordisk A/S		

### **Goods/Services Affected by Opposition**

Class 010. First Use: First Use In Commerce: All goods and services in the class are opposed, namely: Medical devices, namely, needles for injection
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<b>Attachments</b>	doc.pdf ( 3 pages )
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<b>Signature</b>	/Katherine M DuBray/
<b>Name</b>	Katherine M. DuBray
<b>Date</b>	06/02/2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Pfizer Inc. and	§	
Pharmacia & Upjohn Company	§	
	§	Opposition No. _____
Opposers,	§	
	§	Application Serial
v.	§	No. 76/516,846
	§	
Novo Nordisk A/S	§	Publication Date:
	§	December 23, 2003
Applicant.	§	

**NOTICE OF OPPOSITION**

Opposers, Pfizer Inc., a Delaware corporation having a place of business at 235 East 42<sup>nd</sup> Street, New York, New York 10017, and Pharmacia & Upjohn Company, also a Delaware corporation, having a place of business at 100 Route 206 North, Peapack, New Jersey 07977, believe they will be damaged by registration of the mark shown in Application Serial No. 76/516,846, and therefore oppose registration of this mark under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. § 1063. Pharmacia & Upjohn Company, through mergers, is a wholly owned operation of Pfizer Inc.

Application Serial No. 76/516,846, for the mark INSPIRA (Stylized), was filed on May 1, 2003, for “medical devices, namely, needles for injection,” in International Class 10. On June 18, 2003, it was amended to its current stylized form and was published for opposition in the *Trademark Official Gazette* of December 23, 2003. Pfizer Inc. and Pharmacia & Upjohn Company have timely obtained extensions of time to oppose out to June 20, 2004.

The grounds for opposition are as follow:

1. Opposers are engaged in the development, manufacture and sale of prescription and over-the-counter pharmaceutical products and have built a large and successful business in the pharmaceutical and health fields.

2. Opposer Pharmacia & Upjohn Company owns application Serial No. 75/861,567, filed December 1, 1999, and which application has now been approved for registration as of May 1, 2004, for the mark INSPRA covering “pharmaceutical preparations, namely, preparations for the treatment of cardiovascular diseases and conditions,” in International Class 5.

3. Opposers are currently using the INSPRA mark in commerce to sell and promote a preparation for the treatment of cardiovascular conditions and diseases.

4. Applicant filed its application for INSPIRA on May 1, 2003 based on an intent-to-use in commerce and asserting priority under Section 44(d) in connection with Danish Application No. VA 2002 04375, and covering “medical devices, namely, needles for injection,” in International Class 10. On June 18, 2003, Applicant deleted the intent-to-use filing basis from the application and elected to seek registration solely under Section 44(e) on the basis of Danish Registration No. VR 2003 00280, issued January 20, 2003.

5. Upon information and belief, Applicant has made no use of any mark, or any designation in a manner analogous to a mark, consisting of, including or incorporating the term INSPIRA (Stylized) in the United States and Applicant is entitled to rely upon no date earlier than November 7, 2002, for a constructive priority date in this opposition.

6. The filing date for Opposers’ allowed application for the INSPRA mark predates the priority filing date for Applicant’s INSPIRA (Stylized) application.

7. Upon information and belief, the medical devices intended to be offered by Applicant under the mark INSPIRA (Stylized) are closely enough related to the pharmaceutical products now being sold and promoted by Opposers under the INSPRA mark as to be likely to lead to confusion.

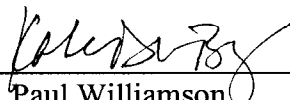
8. Applicant's intended use of the mark INSPIRA (Stylized), for the medical preparations noted above, so nearly resembles Opposers' INSPRA mark for pharmaceutical preparations, namely, preparations for the treatment of cardiovascular diseases and conditions, as to be likely to cause confusion, mistake or deception under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

9. If Applicant's mark is registered, Applicant will receive a *prima facie* nationwide exclusive right to use its confusingly similar mark in commerce and, as such, it would be damaging to Opposers.

WHEREFORE, Opposers pray that this opposition be sustained and that Application Serial No. 76/516,846 be refused registration.

Respectfully submitted,

Date: June 2, 2004

  
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